

U.S. Department of Justice

United States Attorney's Office Eastern District of New York

EAG:AL/AH F.#2011R00006 271 Cadman Plaza East Brooklyn, New York 11201

March 24, 2014

By Hand Delivery and ECF

The Honorable Kiyo A. Matsumoto United States District Court Eastern District of New York 225 Cadman Plaza East Brooklyn, New York 11201

The Honorable Nicholas G. Garaufis United States District Court Eastern District of New York 225 Cadman Plaza East Brooklyn, New York 11201

Re: United States v. John Doe

Criminal Docket No. 12-491 (NGG)

Dear Judges Matsumoto and Garaufis:

The government respectfully submits this letter to advise the Court of a development in the above-captioned case that may bear on whether it is related to another case in this district.

On August 17, 2012, the government notified the Court that this case is presumptively related to <u>United States v. Neil Messina</u>, 11 CR 31 (KAM) ("<u>Messina</u>"), pursuant to Local Rule 50.3.2(b)(1) (providing for a "presumption that one case is 'related' to another when the facts of each arise out of the same charged criminal scheme(s), transaction(s), or event(s), even if different defendants are involved in each case"). More specifically, on August 3, 2012, Albert Guido, who is identified on the docket sheet as "John Doe" and whose case was randomly assigned to Judge Garaufis, pled guilty to an information charging him with conspiracy to commit murder in-aid-of racketeering, in violation of 18 U.S.C. § 1959(a)(5), and attempted murder in-aid-of racketeering, in violation

of 18 U.S.C. § 1959(a)(5). On August 16, 2012, a grand jury returned a superseding indictment in Messina, a pre-existing case assigned to Judge Matsumoto, charging Neil Messina with, inter alia, racketeering conspiracy involving a predicate act that alleges the same murder conspiracy and attempt to commit murder. The Court declined to have this case reassigned to Judge Matsumoto.

On February 18, 2014, Guido testified in a <u>Fatico</u> hearing conducted by Judge Matsumoto in <u>Messina</u>, and his testimony dealt primarily with the murder conspiracy and attempt to commit murder that constituted the original basis for the government's relation letter. Because Judge Matsumoto will impose sentence on Messina, and because Judge Matsumoto observed Guido testify against Messina, the government respectfully submits that reassignment of the above-captioned case may be appropriate, as it would likely result in a significant savings of judicial resources in sentencing Guido and serve the interests of justice.

In addition, because Guido has now testified in open court, the government respectfully requests that the case caption be modified to <u>United States v. Albert Guido</u> and that Docket Entry Nos. 2-5, which were filed under seal because of security concerns, be unsealed.

Respectfully submitted,

LORETTA E. LYNCH United States Attorney

By: /s/

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cc: Clerk of Court (NGG) (by ECF) Michael H. Sporn, Esq. (by ECF)